4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 201 and 314

[Docket No. FDA-2021-N-0862]

RIN 0910-AH62

Nonprescription Drug Product With an Additional Condition for Nonprescription Use; Extension of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is extending the comment period for the proposed rule that appeared in the *Federal Register* of June 28, 2022. The Agency is taking this action in response to requests for an extension to allow interested persons additional time to submit comments.

DATES: FDA is extending the comment period on the proposed rule published on June 28, 2022 (87 FR 38313). Either electronic or written comments must be submitted by November 25, 2022.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. The https://www.regulations.gov electronic filing system will accept comments until 11:59 p.m. Eastern Time at the end of November 25, 2022. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are received on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: https://www.regulations.gov. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to

https://www.regulations.gov will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on https://www.regulations.gov.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2021-N-0862 for "Nonprescription Drug Product With an Additional Condition for Nonprescription Use." Received comments, those filed in a timely manner (see ADDRESSES), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at https://www.regulations.gov or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions--To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on https://www.regulations.gov. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to https://www.regulations.gov and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

FOR FURTHER INFORMATION CONTACT: Chris Wheeler, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 3330, Silver Spring, MD 20993-0002, 301-796-0151, Chris.Wheeler@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In the *Federal Register* of June 28, 2022, FDA published a proposed rule entitled "Nonprescription Drug Product With an Additional Condition

for Nonprescription Use." The 120-day comment period for the proposed rule is scheduled to close on October 26, 2022. The proposed rule, if finalized, would establish requirements for a nonprescription drug product that has an additional condition for nonprescription use that an applicant must implement to ensure appropriate self-selection or appropriate actual use, or both, by consumers without the supervision of a healthcare practitioner.

The Agency has received separate requests for a 30-day and 90-day extension of the comment period for the proposed rule. Each request conveyed concern that the current 120-day comment period does not allow sufficient time to develop a meaningful or thoughtful response to the proposed rule.

FDA has considered the requests and is extending the comment period for the proposed rule until November 25, 2022. The Agency believes that this extension allows adequate time for interested persons to submit comments without significantly delaying rulemaking on these important issues.

Dated: October 18, 2022.

Lauren K. Roth,

Associate Commissioner for Policy.

[FR Doc. 2022-23033 Filed: 10/20/2022 8:45 am; Publication Date: 10/24/2022]